

REMARKS/ARGUMENTS:

Applicant thanks the Examining Attorney for the Office Action dated November 20, 2006. After entry of this amendment, claims 13, 19-20, and 25 are pending in the instant application. Claims 1-12, 14-18, and 21-24 have been canceled.

Request For Withdrawal of Finality

The Examiner made the rejection final. Applicant respectfully disagrees with the halting of finality on two distinct grounds.

First, in the paper dated August 9, 2006, the Applicant added new claim 25. Claim 25 was not examined on the merits in the Office Action dated November 20, 2006. Thus, the Office Action was not complete, as required by 37 C.F.R. § 1.104, and the Applicant has been denied proper examination of claim 25.

Secondly, Applicant respectfully disagrees with the Examiner's statement that the Applicant's amendments necessitated the new grounds for rejection. In the Office Action dated June 16, 2006, the Examiner stated that the language having a hinge section was confusing regarding whether the hinge section was a portion of the strip of flexible material or a portion attached between side panels. Although the Applicant stated its disagreement with the Examiner's finding that this language was confusing, in light of the clear definition of "hinge section" in the specification, the Applicant made a clarifying amendment, which did not change the substantive import of the claims. Furthermore, the Examiner's reliance on the Punch reference, which teaches that artificial or real vegetation may be inserted into a netting that covers a tent, would not have rendered the Applicant's claims obvious under either definition of the term "hinge section." Thus, it is readily apparent that the new grounds

for rejection were necessitated not by the Applicant's Amendment, but rather, by the Examiner's misunderstanding of the teachings of the Punch reference.

For either or both of the reasons set forth above, Applicant respectfully requests that the finality of the November 20, 2006 Office Action be withdrawn.

Objection to the Drawings under 37 C.F.R. § 1.83(a)

The examiner objected to the drawings under 37 C.F.R. § 1.83(a). With regard to the circular cutout elements of claims 15 and 22, these claims have been canceled. With regard to the hinge section, the Examiner asserted that the element pointed to by the reference character "37" does not appear to be a hinge section as defined in the specification. The Examiner gave no rationale as to why this is believed to be so. Turning to the specification of the Applicant's application, the following is stated with respect to the hinge section "37:"

As shown in more detail in FIG. 2, cutout elements 34 are cut from a strip 35 of flexible material, and bear a camouflage pattern which is the same as the pattern 24 which forms the overall pattern of each panel 12 of the enclosure 10. Preferably, each element 34 has a size and shape typical of the leaf elements in the surrounding environment. It is also effective, however, to use simple shapes, such as triangles, circles, or squares in place of leaf-shaped cutouts. Cutout elements 34 remain attached to the sleeve 16 by hinge section 37 which allows each leaf element 34 to move in relation to sleeve 16.

As is apparent from the foregoing, the hinge section 37 is merely a portion of the strip 35 opposite the cutout elements 34, by which the cutout elements 34 are attached to the sleeve 16. This is the exact structure shown in the drawings. Particularly, in FIG. 2, reference character 37 points to the edge of the strip 35 opposite the cutout elements 34. Thus, it is apparent that the description in the specification corresponds to the structure shown in the drawings of the application. For this reason,

Applicant respectfully requests that the objection to the drawings under 37 C.F.R. § 1.83(a) be withdrawn.

Rejections Under 35 U.S.C. § 102

The Examiner first rejected claims 13-14 and 16-17 under 35 U.S.C. § 102(e) as being anticipated by Robinson, United States Patent Application Publication no. 2002/0069904. Of these claims, only claim 13 remains pending in the application, claims 14 and 16-17 having been canceled.

The Examiner asserted that Robinson shows and teaches a portable, collapsible enclosure (100) comprising a plurality of flexible side panels (102), each side panel having a frame including at least one foldable supporting element, when unfolded, providing rigidity and shape to the side panel, a covering material (500) covering the foldable supporting element to define the side panel, the covering material having at least one strip of flexible material forming a sleeve to provide a hinge section to receive the supporting element and to couple the two adjacent panels together, and the strip of flexible material including a three-dimensional pattern being cut therein to simulate the appearance of natural objects.

With regard to the cutout elements, the Examiner pointed to paragraph 32 of the Robinson application. In that paragraph, Robinson does not disclose cutout elements as described in the claims of the instant application. Rather, Robinson points to two previous United States patents, United States Patent No. 4,931,320 to Leonard and United States Patent No. 5,695,835 to Weber, et al. Both of these patents describe a similar material that is quite different than anything claimed by the Applicant. Namely, these patents disclose material having a cut-facing layer bonded to a mesh net substrate.

Regardless of the fact that the Robinson application does not show or describe all of the elements of the claims of the instant application, in order to place this application in condition for immediate allowance, Applicant has amended claim 13 to specify that the invention requires an elongate strip having a hinge section that is continuously connecting to a frame-containing fabric sleeve, along the entire length of the elongate strip. This structure is not taught by the Robinson application or the patents on which Robinson relies, and Applicant requests that the rejection under 35 U.S.C. § 102(e) be withdrawn.

Rejections Under 35 U.S.C. § 103

The Examiner next rejected claims 17-21 and 23-24 under 35 U.S.C. § 103(a) as being unpatentable over Robinson in view of Killinger, United States Patent No. 2,159,273. Of these claims, only claims 19 and 20 remain pending in the instant application, the remainder having been canceled.

The Examiner stated that the claims were considered to be met by Robinson as explained and applied with regard to the rejection under 35 U.S.C. § 102(e), with the exception that Robinson does not teach a means for removably attaching vegetation to at least one of the side panels. The Examiner asserted that this element was taught by Killinger. Furthermore, the Examiner asserted that Killinger teaches at least one elastic strip 32 attached to the side wall for providing means for removably attaching vegetation 33.

For the reasons stated with regard to the rejections under 35 U.S.C. § 102(e), the Robinson application does not teach the strip of flexible fabric material. Regardless, in order to place this application in condition for immediate allowance, Applicant has amended claim 19 to specify that the invention requires an elongate strip having a hinge section that is continuously connecting to a frame-

containing fabric sleeve, along the entire length of the elongate strip. This structure is not taught by the combination of Robinson and Killinger, and Applicant request s that the rejection under 35 U.S.C. § 103(a) be withdrawn.

With regard to claim 20, the Examiner's assertion that Killinger teaches at least one elastic strip 32 is simply wrong. Killinger teaches that element 32 is a brush-holding pocket. Killinger does not teach the elastic strip as claimed in claim 20. For this reason, the Applicant respectfully requests that the rejection of claim 20 under 35 U.S.C. § 103(a) be withdrawn.

The Examiner next rejected claims 13-17 and 19-24 under 35 U.S.C. § 103(a) as being unpatentable over Zheng in view of Eastman, II, et al., United States Patent Application Publication No. 2006/0096630). Of these claims, only claims 13, 19 and 20 remain pending in the instant application, the remainder having been canceled.

The Examiner asserted that Zheng shows an enclosure comprising a plurality of side panels each formed from a frame element including a foldable supporting element, and a sheet of flexible material. The Examiner further asserted that Zheng teaches a hinge section.

The examiner stated that cutout elements are lacking from Zheng, but are taught by Eastman.

The Examiner's assertion that Zheng teaches a hinge section, as stated in the claims of the instant application ignores the previous discussion of that element as stated in the claims of the instant application, and ignores the specification of the instant application. The hinge section, as well-defined in the specification, is an edge of the strip of flexible material opposite the cut-outs. This element is simply lacking from the Zheng structure.

Turning to the Eastman reference, the Examiner asserted the element 40 is a hinge section. Eastman describes elastic loops 40, and does not describe these elements as being associated with

cutout elements. There can be no question that the loops 40 are not the hinge section of a strip of flexible fabric material that has cutout elements formed on it. Furthermore, Eastman teaches a webbing frame 14 that includes individual artificial leaves 18 sewn to straps. These elements, alone or in combination, are not the flexible strip of fabric material required by claims 13 and 19.

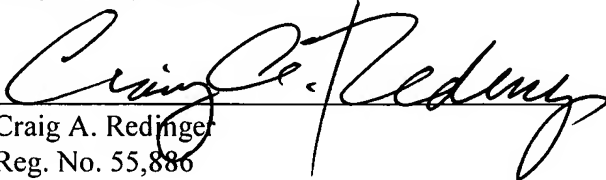
In any case, the combination of Zheng and Eastman would not result in the claimed invention. It would result in a tent, as taught by Zheng, having a webbing frame draped over it, as taught by Eastman. The combination of these references in the manner urged by the Examiner relies on hindsight gained only from the Applicant's disclosure. Thus, the combination of Zheng and Eastman would not render claims 13, 19 and 20 obvious.

Conclusion

Applicant respectfully requests entry of all of the above amendments and withdrawal of the rejections as described. Applicant believes that the application is in condition for immediate allowance and issue. Alternatively, Applicant requests that finality of the office action be withdrawn.

The Examiner is invited to contact Applicant's undersigned Counsel at (734) 662-0270 with any questions regarding this paper.

Respectfully Submitted,



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